

INITIAL STATEMENT OF REASONS

CCR §§ 2041, 2269.1, 2273, 2308, 2369

DOCUMENTATION HEARINGS---RN 02-04

CIRCUMSTANCES THAT THIS REGULATORY AMENDMENT IS INTENDED TO ADDRESS

Pursuant to Penal Code section 3041, the Board of Prison Terms (Board), during the third year of incarceration, is required to meet with each inmate for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding post-conviction credit. One year prior to the inmate's minimum eligible parole release date a panel consisting of at least two commissioners of the Board shall conduct a parole suitability hearing.

At the time that CCR section 2267 (recommendation hearings) was repealed from the Board's regulations, a thorough review of the regulations, deleting reference to recommendation hearings and adding the newly implemented reference to documentation hearings was not completed. These proposed regulatory amendments will replace the earlier references to recommendation hearings (former CCR § 2267) to the currently held documentation hearings (CCR § 2269.1).

CCR section 2269.1 was implemented to more clearly establish the purpose of hearings to document life prisoners' files, referring to such hearings as *documentation* hearings. The objective of the documentation hearing is essentially the same as the previously repealed recommendation hearing—to document activities and conduct pertinent to granting or withholding postconviction credit for time served and further, to make recommendations to the prisoner that will be favorable when being considered for parole.

The proposed amendments to CCR section 2269.1 are necessary to clarify that “all life prisoners” (during the prisoner's 36th month of incarceration) shall have a documentation hearing. Additional changes have been implemented to clarify that the documentation hearing will be conducted by a one-person panel consisting of either a “commissioner” or deputy commissioner. Further, language stating that subsequent documentation hearings shall be held at three year intervals (until the initial parole consideration hearing) has been *deleted* since there is no statutory requirement to conduct additional hearings and it is not feasible for the Board to produce adequate resources to conduct such hearings.

Proposed amendments to CCR sections 2041, 2273, and 2308 are necessary to replace the previously repealed recommendation hearing with what is currently referred to as the “documentation hearing.”

Revisions to CCR section 2369 completely redefine the documentation hearing process for the multijurisdiction prisoner located inside and outside of California for the purpose of documentation hearings—also deleting reference to the previously repealed

recommendation hearing. For multijurisdiction prisoners located outside of California, the hearing may be conducted over the telephone or by “videoconferencing.”

Additional grammatical modifications have been made for clarity and consistency of the regulation text.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board did not rely on any technical, theoretical, or empirical studies in consideration of the proposed action.

ALTERNATIVES TO THE REGULATION CONSIDERED BY THE AGENCY

The Board must determine that no reasonable alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.